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**PRIORITY REQUESTS OF THE UNITED STATES GOVERNMENT TO JAPAN
UNDER THE ENHANCED INITIATIVE ON DEREGULATION
AND COMPETITION POLICY**

The following summarizes the priority requests of the United States Government (USG) to the Government of Japan of measures and commitments we believe Japan should adopt under the Enhanced Initiative on Deregulation and Competition Policy. A full set of USG requests in this area is contained in our submission to Japan of November 1997. Readers should consult that document for a complete listing of U.S. Government requests which can be found at (Internet addresses both English and Japanese)

Telecommunications: Japan's WTO commitments require that Japan ensures that the rates NTT charges other telecommunications providers to interconnect to its network are reasonable and cost-based, and consistent with practices in other developed country markets. This is already a serious problem with respect to competition in local services. If this issue is not adequately addressed before NTT enters international service, anticipated for next year, there is enormous potential for NTT to distort competition in international services markets as well. If Japan clings to interconnection principles based on historical costs, while other competitive markets advance towards incremental costs, competition in Japan could be dealt a crippling blow and Japan could lose a chance to become a regional telecommunications hub. The United States therefore requests that Japan:

- 1) adopt by Japan of a pro-competitive interconnection regime, i.e., a Long-Run Incremental Cost methodology by the end of JCY-1998;
- 2) improve the framework for ensuring non-discriminatory granting of rights-of-way; and
- 3) further liberalize Direct-to-Home TV broadcasting, e.g., through authorization of the use of statistical multiplexing.

Housing: Housing deregulation is clearly a win-win situation for the U.S. and Japan. Consistent with the Prime Minister's March 1996 Housing Initiative, meaningful deregulation in this area should result in reduced costs and wider choice in housing in Japan, as well as improved market access for materials and methods used in North American 2x4-style construction. Japan needs to expedite the process of housing deregulation. The United States therefore requests that Japan:

- 1) endorse, and express its intention to fully participate in, the APEC initiative for forest products trade liberalization;
- 2) publish 2x4 construction testing methods and procedures based on existing North American practice;

- 3) agree on the consultation process regarding Japan's implementation of the Building Standards Law amendments, including a commitment to use a "Notice and Comment" process for draft notifications and procedures necessary to implement the amendments;
- 4) initiate an active MOC promotion program of the newly available expedited procedures for approval of three-story multi-unit 2x4 construction in quasi-fire protection zones; and
- 5) approve the American Lumber Standards Committee (ALSC) and Western Wood Products Association (WWPA) applications to MOC for recognition of U.S.-graded finger jointed lumber and of the United Laboratories grademark application.

Medical Devices and Pharmaceuticals: Significant improvements in the approval process for medical devices and pharmaceuticals in Japan will allow for the more rapid and cost-effective introduction of these products into Japan for the benefit of Japanese patients. The United States is especially concerned that the reference pricing system currently being considered by Japan will adversely impact foreign market access and lower the quality of medical care provided to Japanese patients. The United States is strongly opposed to the implementation of a reference pricing system, and believes that prices for patented pharmaceutical products should be market-based. The United States therefore requests that Japan:

- 1) allow market-based pricing for patented pharmaceuticals;
- 2) expedite the approval process for new drugs;
- 3) improve the implementation of the by-function reimbursement system by creating new functional categories for new products in a timely fashion; and
- 4) greatly expand the acceptance of foreign clinical test data.

Distribution: The Large-scale Retail Store Law (LSRSL) clearly acts as a barrier to market access in Japan and is responsible for keeping consumer prices artificially high. In moving forward with its plans to abolish the LSRSL, Japan should ensure that local governments do not use their new authority to restrict large scale store openings under the guise of environmental or other regulation. The United States therefore requests that Japan:

- 1) voluntarily commit to use a "Notice and Comment" process in implementing the proposed new Large-scale Retail Store Location Law by the Ministry of International Trade and Industry, and amendments of the City Planning Law by the Ministry of Construction;
- 2) ensure that local governments establish clear and legitimate criteria, which does not allow for the protection of existing business, in carrying out their new authorities; and
- 3) establish a central government process for readdressing grievances of retailers. This process should provide for prompt review and redress of decisions by local authorities.

Competition Policy: Aggressive Antimonopoly Law (AML) enforcement is a critical complement to deregulation. As markets deregulate, firms often try to "reregulate" by engaging in anticompetitive practices to thwart new competition. Japan must improve AML enforcement and strengthen competition policy. The United States therefore requests that Japan:

- 1) ensure that the JFTC has a more proactive role in the deregulation process;
- 2) establish follow-up procedures for the JFTC regarding whether firms have complied with advisements and recommendations made by the JFTC in its industry surveys;
- 3) require all tendered bids to be accompanied by a statement from the bidding firm that it arrived at its bid without any communications with a competitor for the purpose of restricting competition;
- 4) enact appropriate legislation to permit private parties to sue for injunctions in actions based upon Antimonopoly Law violations; and
- 5) increase the budgetary and staffing resources of the JFTC.

Transparency and Other Government Practices: Improvements in the transparency of the public policy process and increased opportunities for public participation in the administrative system are important compliments to sectoral deregulation in Japan. The United States therefore requests that Japan:

- 1) establish a government-wide "Notice and Comment" process, and pending adoption thereof, commitments by ministries and agencies to voluntarily use a "Notice and Comment" process when making important regulatory changes;
- 2) examine the implementation of the Administrative Procedure Law in order to alleviate the burdensome and unpredictable nature of the application process; and
- 3) adopt an Information Disclosure Law that will provide the public with effective access to government information.

Legal Services: Japanese and foreign businesses must be able to obtain fully integrated transnational legal services in Japan, in particular with the increased demand for legal services that will inevitably result from the implementation of the "Big Bang" liberalization. Such world class legal services are not feasible in Japan given the inadequacies of the registered associations (*tokutei kyodo jigyo*) system. The United States therefore requests that Japan:

allow foreign legal consultants in Japan to hire and to enter into partnerships with Japanese *bengoshi*.

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